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Message Text

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INFO OCT-01 EUR-12 IO-13 ISO-00 CIAE-00 DODE-00 PM-04
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INFO AMEMBASSY ANKARA PRIORITY
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AMEMBASSY NICOSIA PRIORITY
AMEMBASSY LONDON PRIORITY
USMISSION NATO PRIORITY
USMISSION USUN NY PRIORITY

C O N F I D E N T I A L STATE 073367

VIENNA FOR LEDSKY BRUSSELS FOR HARTMAN

E.O. 11652: GDS

TAGS: PFOR, CY, TU, GR, AU

SUBJECT: TURKISH CYPRIOT CONSTITUTIONAL PROPOSALS

REF: VIENNA 2595

1. INITIAL INR-EUR ANALYSIS OF APRIL 1 TURKISH CYPRIOT CONSTITUTIONAL PROPOSALS INDICATES TURKISH CYPRIOT CONCEPT IS STILL FAR MORE CONFEDERATION THAN FEDERATION. NEW PROPOSAL'S PARA III (2), WHICH REPEATS 1976 LANGUAGE VERBATIM, IS ALMOST A POLITICAL SCIENTIST'S DEFINITION OF CONFIDENTIAL

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CONFEDERATION.

2. NEW TURKISH CYPRIOT PROPOSALS DO, HOWEVER, REPRESENT PROGRESS IN SENSE THEY ARE MORE REALISTIC THAN 1975/76 DOCUMENTS. FOR EXAMPLE, POWERS ASSIGNED EXPLICITLY OR IMPLICITLY TO STATE GOVERNMENTS IN OLD DOCUMENTS, SUCH AS CUSTOMS, AIR AND SEA NAVIGATION, CITIZENSHIP HAVE NOW BEEN

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ASSIGNED TO CENTRAL GOVERNMENT.

3. AT SAME TIME, WHILE CONCEPT OF CONFEDERATION STRONG THROUGHOUT NEW DOCUMENT, TURKISH CYPRIOTS HAVE FOR FIRST TIME IN WRITING INTRODUCED IDEA OF TRANSITIONALITY, I.E.,

THAT SYSTEM MAY EVOLVE TOWARD GREATER CENTRAL AUTHORITY AS CONFIDENCE GROWS BETWEEN THE TWO FEDERATED STATES BASED ON EXPERIENCE. TO IMPLEMENT THIS PROCESS, NEW TURKISH CYPRIOT DOCUMENT PROPOSES "COORDINATION COMMITTEES" OR ADVISORY FEDERAL BODIES IN SEVERAL AREAS SUCH AS PUBLIC HEALTH, THOSE TOPICS LISTED IN SECTION IV (10) A THROUGH H.

4. ALSO, BY BEING LESS SPECIFIC IN NEW DOCUMENT, TURKISH CYPRIOTS HAVE LEFT FEDERAL GOVERNMENT LESS CIRCUMSCRIBED IN CERTAIN AREAS. FOR EXAMPLE, IN FOREIGN AFFAIRS NEW DOCUMENT DROPS CAVEATS REGARDING TIES WITH MOTHER COUNTRY, 50-50 REPRESENTATION IN IMPORTANT DIPLOMATIC POSTS. UNDER EXTERNAL DEFENSE THEY HAVE DROPPED REFERENCES TO "EQUALITY" OF FORCES AND TO TREATIES OF GUARANTEE AND ALLIANCE.

5. CONSTITUTIONAL STRUCTURE OF FEDERAL GOVERNMENT OUT-LINED IN SECTION VI IS FIRST TIME TURKISH CYPRIOTS HAVE APPROACHED THIS DEGREE OF SPECIFICTY WITH REGARD TO FORM OF FEDERAL GOVERNMENT. WHAT THEY PROPOSE, HOWEVER, SEEMS NO DIFFERENT IN MANY WAYS, NO MORE WORKABLE THAN, AND FRAUGHT WITH SAME HAZARDS AS 1960 CONSTITUTION. IN CONFIDENTIAL

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PARTICULAR, CONCEPT OF "REPRESENTATIONAL" (READ): "CEREMONIAL") FEDERAL PRESIDENCY, REAL EXECUTIVE POWERS VESTED IN CHIEF EXECUTIVES OF FEDERATED STATES, LEAVES REPUBLIC A TWO-HEADED MONSTER IN WHICH BASIC DIFFERENCES OF OPINION PROBABLY WOULD BE EXACERBATED, NOT RECONCILED. THERE IS ALSO AMBIGUITY WITH RESPECT TO FEDERAL LEGIS-LATIVE JURISDICTION. FEDERAL LEGISLATURE IS GIVEN RESPONSIBILITY FOR "THOSE LIMITED AND WELL-DEFINED MATTERS ENUMERATED IN THESE PROPOSALS." AMONG FEDERAL RESPONSI-BILITIES (SECTION IV), HOWEVER, A NUMBER OF AREAS ARE GIVEN TO ADVISORY OR COORDINATIVE BODIES, AS NOTED ABOVE. IT IS UNCLEAR WHETHER FEDERAL OR STATE LEGISLATURES ARE INTENDED TO HAVE JURISDICTION IN THESE AREAS. IN JUDICIAL AREA, NEW TURKISH CYPRIOT PROPOSAL SIMPLY REMOVES NEUTRAL JUDGE PROVISION OF 1960 CONSTITUTION, LEAVES SUPREME CONSTITUTIONAL COURT NO MORE ABLE TO FUNCTION EFFECTIVELY THAN UNDER OLD CONSTITUTION.

6. OTHER COMMENTS:

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(A) PREAMBULATORY LANGUAGE SEEMS INAPPROPRIATELY INFLAM-
MATORY FOR CONSTITUTIONAL DOCUMENT, IS NOTHING MORE THAN
TURKISH CYPRIOT ATTEMPT TO PLEAD OWN CASE FOR POSTERITY,
OBVIOUSLY UNACCEPTABLE TO GREEK CYPRIOTS, IN OUR VIEW.

(B) NEW PROPOSALS FOR FIRST TIME USE TERM "TURKISH
FEDERATED STATE OF CYPRUS;" EARLIER SUBMISSIONS CONTAIN
"TURKISH COMMUNITY" OR SIMILAR FORMULATIONS.

(C) WE FIND ABSENT ANY REFERENCE TO "INTERNAL SECURITY,"
ALTHOUGH BOTH SIDES' 1976 SUBMISSIONS ARE MOST EXPLICIT
ON THIS SUBJECT.

(D) HUMAN RIGHTS: ALTHOUGH TURKISH CYPRIOT QUALIFYING
PHRASES IN SECTIONS ON HUMAN RIGHTS (SECTION III/9) AND
FUNDAMENTAL RIGHTS AND LIBERTIES (SECTION VII) ARE
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UNDERSTANDABLE, EFFECT IS TO MAKE JUDICIAL PROTECTION OF
HUMAN RIGHTS DIFFICULT, IF NOT IMPOSSIBLE.

(E) PROVISION (SECTION IV/3) FOR TWO CENTRAL BANKS IS
ALSO UNDERSTANDABLE BUT DOES NOT ADDRESS REAL PROBLEM
INHERENT IN USE OF SAME CURRENCY FOR WHAT WOULD BE, AT
LEAST AT OUTSET, TWO HIGHLY DISPARATE ECONOMIES. THIS
TWO-BANK MECHANISM, IT SEEMS TO US, WOULD INEVITABLY
LEAD TO CONFLICTS OVER USE OF MONETARY POLICY AS
MACROECONOMIC TOOL UNTIL ECONOMIES OF BOTH ZONES WERE
TRULY AND FULLY INTEGRATED.

(F) SYSTEM OF FINANCING FEDERAL DEFICITS THROUGH
"CONTRIBUTIONS" FROM STATES, ALTHOUGH ESSENTIALLY SAME
AS IN TURKISH CYPRIOT 1975/76 PROPOSALS, SEEMS TO PROVIDE
INHERENT SOURCE OF FUTURE DIFFICULTIES.
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